

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

ANDREW CORZO, SIA HENRY, ALEXANDER  
LEO-GUERRA, MICHAEL MAERLENDER,  
BRANDON PIYEVSKY, BENJAMIN SHUMATE,  
BRITTANY TATIANA WEAVER, and  
CAMERON WILLIAMS, individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

BROWN UNIVERSITY, CALIFORNIA  
INSTITUTE OF TECHNOLOGY, UNIVERSITY  
OF CHICAGO, THE TRUSTEES OF COLUMBIA  
UNIVERSITY IN THE CITY OF NEW YORK,  
CORNELL UNIVERSITY, TRUSTEES OF  
DARTMOUTH COLLEGE, DUKE UNIVERSITY,  
EMORY UNIVERSITY, GEORGETOWN  
UNIVERSITY, THE JOHNS HOPKINS  
UNIVERSITY, MASSACHUSETTS INSTITUTE  
OF TECHNOLOGY, NORTHWESTERN  
UNIVERSITY, UNIVERSITY OF NOTRE DAME  
DU LAC, THE TRUSTEES OF THE  
UNIVERSITY OF PENNSYLVANIA, WILLIAM  
MARSH RICE UNIVERSITY, VANDERBILT  
UNIVERSITY, and YALE UNIVERSITY,

Defendants.

Case No.: 1:22-cv-00125

**Hon. Matthew F. Kennelly**

**PLAINTIFFS' STATEMENT OF COMPLIANCE WITH LOCAL RULE 37.2**

This Local Rule 37.2 Statement accompanies Plaintiffs' Motion to Compel Production of Documents Responsive to Plaintiffs' First and Second Sets, and Certain Documents Responsive to Plaintiffs' Third Set, of Requests for Production of Documents ("RFPs"). Plaintiffs have conferred in good faith with Defendants in an effort to resolve the issues raised by this motion.

The parties conducted (a) six global Meet and Confer ("M&C") sessions with all Defendants via video and/or telephone, on November 4, 11, 16, 18, 28, and 30, 2022 concerning

Plaintiffs First and Second Sets of RFPs, and (b) numerous email communications and individual M&C sessions via video and/or telephone, relating to the RFPs.<sup>1</sup>

The parties further engaged in a series of M&Cs via video and/or telephone regarding search terms related to those RFPs on November 28, 2022, and January 20, February 3 and 9, 2023, as well as exchanges of emailed proposals, resulting in the parties coming to a global consensus as to search terms in February 2023.<sup>2</sup> The search terms that have been negotiated include terms covering the RFPs for which all or many Defendants initially took the position that they would not produce documents. Thus, Plaintiffs proceeded with the understanding that Defendants were not standing on their original, broader refusals to produce documents in response to the RFPs.

As part of the above, the parties engaged in numerous M&Cs to discuss the relevance and scope of Plaintiffs' requests. A key result of these M&Cs was that the parties have reached agreement on the temporal scope of what Defendants will produce, to the extent documents and data exist and are reasonably accessible.<sup>3</sup> Further production of post-complaint discovery has been resolved by the Court's March 8, 2023 Order (Dkt. 330). In light of, and subject to, these

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<sup>1</sup> For virtually every individual Defendant, there have been at least three such M&Cs.

<sup>2</sup> As noted hereinafter, two Defendants, Emory and Dartmouth, identified individualized circumstances regarding the search terms, which have been resolved. For convenience, Plaintiffs will utilize the abbreviated name for each Defendant used in the Second Amended Complaint, except that the "University of Notre Dame du Lac" will be abbreviated as "ND" and "Johns Hopkins University" will be abbreviated as "JHU".

<sup>3</sup> Caltech stated that it was "assessing" the burden of producing pre-January 1, 2017 documents related to the formation, development, and purposes of the 568 Presidents' Group and the Consensus Methodology. As for JHU, during a February 7, 2023, meet and confer, Samer Musallam, Esq. took the position that JHU will not search for or produce any unstructured data and documents from more than a few years before JHU joined the 568 Group. Mr. Musallam informed Plaintiffs that they would have to seek relief from the Court for any data or documents going back further in time.

agreements on scope, Plaintiffs understood all Defendants to have agreed to search for and produce documents the production of which had been stated to be subject to M&Cs, particularly regarding the scope of the RFP.

In a February 1, 2023 email following up on an original January 29, 2023 email, Plaintiffs invited each individual Defendant to advise Plaintiffs if, due to that Defendant's "exceptional individualized circumstances," that individual Defendant had a particular issue with the global resolutions that had been reached. In response, no Defendants brought to Plaintiffs' attention such individualized objections that would warrant a failure to produce documents. Two Defendants (Emory; Dartmouth) raised individualized concerns regarding the breadth of documents returned by certain searches based on the otherwise agreed-upon search terms. Emory raised an issue regarding one search string to which Plaintiffs acceded. Plaintiffs conditionally accepted Dartmouth's revisions pending a review of their productions.<sup>4</sup>

On February 28, 2023, Plaintiffs forwarded to Defendants a detailed 4-page email, with attached itemized Schedules (Exhibit 1 hereto), concerning the RFPs stating that, in light of the above and following the extensive dialogue between the parties over numerous M&Cs and the resolution of search terms and scope of production, and further rulings and other guidance from the Court, Plaintiffs understand that all Defendants will now use the agreed upon search terms and produce responsive documents to all of Plaintiffs' remaining active RFPs, unless Plaintiffs are specifically advised to the contrary by close of business on March 2, 2023. Plaintiffs further sought written confirmation from each Defendant by close of business on March 2, 2023, that the

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<sup>4</sup> A third Defendant had initially raised an issue, but later withdrew their issue.

Defendant intends to search for and produce documents responsive to the remaining active RFPs from Plaintiffs' First and Second Sets of RFPs. Plaintiffs further requested that if any Defendant intended to stand on its objection in response to any RFPs, the Defendant advise Plaintiffs in writing by close of business on March 2, 2023, as to which RFPs it refuses to produce responsive documents, and its grounds for doing so.<sup>5</sup>

Plaintiffs' February 28, 2023 email stated that: (a) plaintiffs were further willing to engage in a further M&C to resolve any remaining uncertainty that may exist, unless in Plaintiffs' judgment the issue or RFP is ripe for presentation to the Court; and (b) in the absence of confirmation that Defendants are producing documents notwithstanding earlier objections, and substantial productions on March 3 and March 6, 2023 are consistent with this confirmation, Plaintiffs will then be forced to move the Court to compel production.

Defendants' response to Plaintiffs' February 28 email and schedules was a dismissive one paragraph email from Sarah F. Kirkpatrick, Esq. (Exhibit 2 hereto) wherein Defendants provided no detailed response and suggested that Plaintiffs' return to further individual M&Cs with the 17 Defendants.

Plaintiffs respectfully submit that they have complied with Local Rule 37.2 as to the issues that are addressed in the accompanying Motion.

Dated: March 21, 2023

Respectfully submitted,

By: /s/ Edward J. Normand  
Devin "Vel" Freedman

/s/ Robert D. Gilbert  
Robert D. Gilbert

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<sup>5</sup> This email did not address the Third Set of RFPs, to which Defendants had only responded the night before.

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